DOCUMENT RESUME

ED 207 118 CS 503 606

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TITLE Censorship in Public Schools.
INSTITUTION Freedom of Information Center, Columbia, Mo.
REPORT NO FOI-443
PUB DATE Aug 81
NOTE 8p.

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Academic Freedom; Books; *Censorship; Community Attitudes; Community Role; *Court Litigation; Curriculum; Elementary Secondary Education; *Freedom of Speech; School Publications; Sociocultural Patterns; *Student Rights

ABSTRACT

Attempts to control the content of curricula and of books in school libraries are increasing rapidly, bringing into focus the question of what rights students have to receive information and what rights a community has in determining what information is taught and available in its schools. There have been several cases concerning First Amendment rights of students and teachers. The one that is cited most often is "Tinker v. Des Moines Independent Community School District," in which three students were suspended from high school for wearing black armbands to protest the Vietnam War. Although this case did not deal specifically with censorship of books, it set a precedent for students' rights that has been subsequently used in defense against the removal of books, in establishing curricula, and in censorship of school newspapers. The area of school authority and students' rights in deciding curricula is one of the grayest, especially in the courts. Courts appear to prefer not to intrude and often defer to school board expertise. The vague and contradictory rulings of the courts have probably contributed to the increase in the number of censorship cases by making the issue of academic freedom more vulnerable. There is also the increased concern by citizens that society has become too permissive, and that permissiveness is most apparent in the schools. With the burgeoning power of conservative pressure groups and the reluctance of the courts to clearly define the right to academic freedom, free expression finds itself in the most dangerous of situations since the McCarthy hearings on communism. (HOD)

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FREEDOM OF INFORMATION CENTER REPORT NO. 443

CENSORSHP IN PUBLIC SCHOOLS

This report was written by Angela K. Sneller, a master's candidate at the University of Missouri School of Journalism.

Drake, N.D., 1973. The school board of the local high school ordered the confiscation and burning of three books, Kurt Vonnegut's **Slaughterhouse Five**, James Dickey's **Deliverance**, and an anthology of short stories by such authors as Joseph Conrad, John Steinbeck, and William Faulkner. Later, the superintendent said none of the school board members had read the books and added, "I don't regret it one bit, and we'd do it again. I'm just sorry about all the publicity that we got."[1]

Omaha (Neb.) Christian School, 1980. While students watched, the school principal set fire to books he said could "hinder Christian lives." Included in the burning were Batman and Daffy Duck comic books, copies of **National Geographic**, a record album jacket of the disbanded rock group, The Animals, and a book titled **50 True Tales of Terror**.[2]

Although these examples may be overdramatic, the intentions behind the censors' actions are typical of the rash of censorship cases breaking out across America. From the **American Heritage Dictionary** to **Catcher in the Rye** to the seemingly innocuous **The Hobbit** and **A Separate Peace**, books of all kinds are being banned from school libraries and removed from classroom curriculum in increasing numbers. From 1966 to 1975 the Office of Intellectual Freedom (OIF) of the American Library Association (ALA) cited over 910 cases in United States schools, 386 of which occurred in high schools. A more recent survey by the OIF reported 300 cases in just one year from 1978 to 1979.[3] In 1980, the ALA reported that censorship pressures of all kinds increased from three to five episodes a week to three to five episodes a day.[4]

This trend has been steady since the 1960s. Successful censorship attempts went up 12 percent in the 1970s, over the 1960s, with the increasingly hard-line approach of complete censorship by the censors.[5] Judith Krug, director of the OIF, reported three times as many attempts in the 1970s and 10 times as many uncontested removals, restrictions, or instances of avoiding all controversial materials.[6]

Forms of Censorship

Anyone and any group can complain about school materials. School administrators and the school boards are perhaps the most conspicuous censors, but state educational agencies, textbook publishers and the courts also censor. Surprisingly, teachers and librarians accounted for 10.5 percent of all censorship attempts, according to a 1977 National Council of Teachers of Education survey.[7] The Congress potentially can censor through funding and legislation, and state legislatures already have. For example, in 1975 the Oregon legislature passed a textbook guidelines law stating: "No text book (sic) shall be used which speaks slightingly of the founders of the republic or of those who preserved the Union or which undervalues their work."[8]

Most attacks are based on politics, racism, religion and issues of morality, obscenity, sex, nudity, or language. More specific targets are materials about or by minorities and women, the problems of poverty, sex education, and cultures that differ radically from white, middle-class America. Teachers are attacked on their competence and values, especially their teaching of "secular humanism" as opposed to "religion." Humanism, the teaching of how human cultures and life developed and the fostering of appreciation for different cultures, has become more in disfavor in the recent uproar than teaching evolution as opposed to teaching creation.

Legally, the struggle is between the right of the individual for free expression under the First Amendment, which has been taken to mean the right to have knowledge available to him, and the right of the states to compel and oversee the education of minors and decide what is best for them.[9] Someone must decide on the school curriculum, and someone must select books for the libraries. The question that no one, not even the courts, has been able to answer to anyone's satisfaction is who that someone should be.

The Courts: Obscenity and First Amendment Rights

Amid the wide range of court cases dealing with book censorship and students' First Amendment rights, R. Bruce Rich, counsel for the Association of American Publishers, sees two generalizations about the courts' stands on the issues. First that First Amendment rights of students and others are implicated in school officials' actions, and secondly that where First Amendment claims have been raised, the courts will step in to resolve them.[10] Rich is more pessimistic on the courts' rulings on obscenity:

> While much of the overbroad legislation (on obscenity) has been successfully challenged, there

Attempts to control the content of books in school libraries and the content of curriculum are increasing rapidly, bringing into focus the question of what rights students have to receive information and what rights a community has in determining what information is taught and available in its schools.

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> remain on the books numerous state and local laws which, through their threat of criminal and civil penalities, have undoubtedly chilled the dissemination of constitutionally protected materials.[11]

The major case that has allowed such broad legislation to be passed is the Supreme Court's ruling in **Miller v. California*** in 1973. The court upheld the lower court's definition of obscene materials according to "contemporary community standards." Furthermore, the guidelines for determining obscenity applied to the average person of the community who might find that the work, "taken as a whole, appeals to the prurient interest. . . (or) lacks serious literary, artistic, political or scientific value." Expert testimony as to the work's social value was no longer necessary; the individual jurors could make their own determination based on prevailing standards.

When in 1975, nine states passed obscenity laws, and 38 out of 44 state legislatures meeting that year considered passing laws based on the ruling,[12] Justice William Douglas' warning in his minority opinion to **Miller** seemed valid:

> What we do today is rather ominous as respects librarians. The net now designed by the court is so finely meshed that taken literally it could result in raids on libraries. . . If what is offensive to the most influential person or group in a community can be purged from a library, the library system would be destroyed.

Because of the broad wording and increased vulnerability of libraries in the ruling, more pressue has been brought on schools and libraries to test the spirit of legislation passed on the ruling's precedent. The amorphous body of "contemporary community standards" has also been tested in more communities in attempts to define more stringently what obscenity is.

There have been several cases concerning First Amendment rights of students and teachers. The one that is probably cited most often is **Tinker v. Des Moines Independent Community School District**. In 1969, three students were suspended for wearing black armbands in protest of the Vietnam War after they had been warned not to do so. Their right to peaceful protest was upheld, and it was qualified only where the action might disrupt class work or interfere with the rights of others.

Although this case does not deal specifically with censorship of books, it sets a precedent for students' rights that has been subsequently used in defense against the removal of books, in establishing curriculum and in censorship of school newspapaers. The court maintained, "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the school house gate."

Further clarifying and strengthening its position, the court said:

> In our system, state-operated schools may not be enclaves of totalitarianism. . . Students in schools as well as out of school are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate.

Despite its strong wording, questions of what students should be able to read and discuss in school keep cropping up as more and more parents and citizens became concerned about what children were learning and hearing in public schools.

Most of these cases were argued in favor of the students' or teachers' academic freedom. They further refined the tenets set forth in **Tinker**. In **Keefe v. Geanakos**, the court reinstated a teacher who was fired for assigning a book that contained an obscene word and for not agreeing to stop saying the word in class. The plaintiff argued that he had lost his academic freedom through the dismissal. Although granting that some regulation is needed in public education, the court ruled that the reading had more educational value than offensiveness to the students. The court also said that parents' sensibilities could not be the full measure of a proper education and upheld the teacher's use of the material for valid educational purposes.

In a similar case in 1970, **Parducci v. Rutland**, the court again upheld a teacher's right to use a story termed "disruptive" by the local school board. The teacher had been fired for teaching Kurt Vonnegut's **Welcome to the Monkey House** after being ordered not to. The court found no obscenity in the story and ruled the students' rights had been violated on three counts: 1) They no longer had access to a book they previously had; 2) Their right to know was impaired by the loss; and 3) There was no "compelling or substantial" state interest that justified the impairment.

Students' rights were again upheld in 1974 in **Williams v. Board of Education of the County of Kanawha.** Parents had opposed the texts chosen by the board, claiming the books contained material "offensive to Christian morals. . . defames the Nation. . . encourages the use of vile and abusive language," and encourages the violation of the Ten Commandments and civil law. The court ruled that although some of the subject matter was offensive to the plaintiffs' beliefs, the use of the books did not violate their constitutional rights. The case was decided on this basis and not on the basis of **Miller** and its definition of obscenity.

One of the judges commented on the subject of freedom of religion the parents had claimed was violated, saying it, "does not guarantee that nothing about religion will be taught in the schools nor that nothing offensive to any religion will be taught." He said it only prohibits states from encouraging or discouraging any religion. Once again, the students' right to material that might be offensive to others was protected by the courts.

Another case went further in affirming the rights of students in the classroom set forth in **Tinker**. In **Gambino v. Fairfax County School Board** the Fourth Circuit Court upheld the lower court's decision to order the school district to allow the student paper to publish the results of a student survey, "Sexually Active Students Fail to Use Contraception."The school argued against publication on the grounds that the subject had been prohibited in the curriculum. Since the paper was part of the curriculum, it should be banned, the school said. The court, however, ruled that the survey could be printed as part of the students' learning process.

For its disavowal of **Tinker** and its hard line against student' rights, the dissenting circuit judge's opinion is of interest. He said:

> (T)he First Amendment rights of secondary school pupils are not "co-extensive" with those of adults and . . . such rights may be "modified or curtailed"to accord to ligitimate school concerns. To repeat: A school Administration certainly has a legitimate concern in eliminating from its curriculum material which may be reasonably consid-

*Citations for legal cases may be found in the list of cases that follows the footnotes at the end of this report.

ered as conducive to immorality and not appropriate to proper academic education.

The Courts: The Right to Decide Curriculum

The area of school authority and students' rights in deciding curriculum is one of the grayest, expecially in the courts. When the court has decided matters at all, those decisions are broad and often contradictory. Julia Turnquist Bradley wrote in the **Connecticut Law Review** that the courts do not want to become invovlved in debate over educational processes and philosophies.[13] Because of this, she asserts they often defer to "school board expertise."

Bruce Rich also makes two generalizations on this subject. He says courts have generally ruled that school authorities have great discretion in establishing curriculum as a part of their educational function. He, too, says courts are "loathe to intrude" out of deference to the "board's educational mandates" and to avoid a "floodgate" of litigation.[14]

The court demonstrated this aversion to interfering when it ruled on the **Parducci** case, which was cited earlier. The court said the judiciary should stay out of school business and give "wide discretion" to the boards, as long as there was no infringement upon the students' and teachers' constitutional rights.

In a more recent ruling, in 1980, the court ruled against the students, using — in a different manner — the same principle. The school board in Warsaw, Ind., banned 40 copies of a "values clarification" textbook, which dealt with issues of divorce, sex and marijuana. The school also eliminated the course the books were used in, banned four other books and dismissed three teachers. Senior citizens of the town subsequently burned the books to demonstrate their support of the board's ruling.[15]

A federal appeals panel dismissed a suit against the school on the grounds that:

> Nothing in the Constitution permits the courts to interfere with local educational discretion until local authorities begin to substitute rigid and exclusive indoctrination for the mere exercise of their prerogative to make pedagogic choices.

Beneath the rhetoric lies the attitude that the board has a wide berth in setting the curriculum. Despite the warning here against "exclusive indoctrination," the court's willingness to take the board's view and not the students' seems implicit.

Three cases need to be examined in some detail for their importance in setting precedents. They also exhibit the tenuous hold academic freedom has in the courts and the contradictory nature of the rulings.

President's Council, District 25 v. Community School Board No. 25

When the New York Civil Liberties Union filed this case in 1973, it was the first time a school board had been sued specifically for banning books.[16] The harrowing experience of this case, typical in its appeals and drawn-out procedures, began in 1971 when Piri Thomas' book, **Down These Mean Streets**, was banned by the school board. The book, which realistically portrays a Puerto Rican ghetto in Harlem, was reinstated to the libraries to be loaned on request to children's parents in the school district, but not to children.

The plaintiffs argued that the action was an infringement on the students' right to know and thus a curtailment of their academic freedom. They also cited a Supreme Court precedent that ruled, "no teacher, even if untenured, may be denied a new contract or fired in midyear because he has exercised a right secured by the Constitution of the United States."[17] The plaintiffs said the librarian had to defy the board's ban and risk dismissal to challenge it.

The U.S. District Court for East District of New York dismissed the case without a hearing on the grounds that the school board has statutory powers to determine matters of education. More precisely, the court said the board has the power:

> to determine matters relating to the education of students. . . (T)he board, acting pursuant to its statutory powers, had the discretion to order the book or refuse to do so, to put in on the school library shelves or to remove it therefrom. Therefore, the decision to ban the book could not be reviewed by the courts.

Besides this affirmation of the board's powers, the court also decided that shelving or unshelving books does not present a constitutional issue, "particularly where there is no showing of a curtailment of freedom of speech or thought." Thus, the court bypassed the issue of academic freedom, reducing it to a question of shelving a book.

The Second Circuit Court of Appeals agreed unanimously with the court's decision, saying there had to be some authorized group to decide which books to place in libraries. It ruled that since discussion was not prohibited in the school, even though they could not read the book there, the students' constitutional rights had not been denied.

Alan H. Levine, lawyer for the ACLU and author of **The Rights of Students**, said of the courts' actions:

> If school boards are permitted to take books found offensive to some and make them unavailable to all, they will encourage every pressure group, every self-appointed guardian of public morals to make their own selection for banning. On the other side, every teacher and every librarian will be put on notice that they select at their peril any but the most benign and undistinguished materia'.s.

We will see later how pressure from conservative groups has mounted and how these groups have contributed to the rise of censorship in public schools.

Ironically, children of the schools where **Down These Mean Streets** had been banned said the ban encouraged them to read it, thus have an effect opposite its intention. Those who had never heard of it suddenly wanted to read for themselves what the uproar was about. One girl said the board might want to ban the book, but it couldn't ban the place the book was about.

The Supreme Court also refused to hear the case, frustrating the plaintiffs' attempts even more. In dissent, Justice William O. Douglas wrote:

> What else can the school board now decide it doesn't like? How else will its sensibilities be offended? Are we sending children to school to be educated by the norms of the School Board or are we educating our youth to shed the prejudices of the past, to explore all forms of thought, and to find solutions to our world's problems?

The questions Douglas raised are still unanswered by the courts and the community. The right of students to get the most information available on all subjects, in all forms, unfortunately rests precariously in the hand of the lower court judges.

Minarcini v. Strongsville City School District

This case steadies academic freedom and establishes a

precedent for the protection of school libraries. In 1976, Kurt Vonnegut's **Cat Cradle** and Joseph Heller's **Catch-22** were removed from the school library by the Strongsville, Ohio, school board.

The original issues concerned what kind of books should be selected as high school texts and be taught in classrooms, and what books should be bought for the high school library or removed from it. The plaintiffs filed a class action suit claiming the board had violated the First and Fourteenth Amendment rights by not approving the faculty's recommendation to adopt the books as texts, by removing the books from the library, and by prohibiting discussion of the books in the classroom.

The court rules that the issue of selection was the board's duty granted by the court. This affirmed the board's right to use its own discretion. It could hear the faculty's recommendations, but was protected from any federal violations if its choice differed from the faculty's.

Concerning the board's removal of the books, the court found that the novels were not on trial, and therefore, were not the issue. Both parties had found that neither book was obscene and both had literary value.

Following the **President's Council** decision, the judge dismissed the plaintiffs' complaints, arguing that some authorized body had to decide, and the board had the absolute right to make that decision. The court also stated the board had a duty to determine shelving according to financial and architectural possibilities, and the books could be removed on that basis.

The case was appealed to the Sixth Circuit Court which overturned the original ruling. The court concluded that the school board had not been motivated to remove the books due to shelving problems, but had removed them because they were found objectionable, and the board members felt they had the power to censor. The court went further to strengthen the case for academic freedom and the sanctity of libraries by stating:

> A library is a storehouse of knowledge. When created for a public school it is an important privilege created by the state for the benefit of students in the school. That privilege is not subject to being withdrawn by succeeding school boards whose members might desire to "winnow" the library for books the contents of which occasioned their displeasure or disapproval.

Thus, the court ruled that having created a library, the board could not place conditions on the use of it related to social or political views of the school board.

Furthermore, the court outlined that the burden on the board to provide material could not be minimized by the availability of the books in other sources outside the school. The court said, "Restraint on expression may not generally be justified by the fact that there may be other times, places, or circumstances available for such expression." The court upheld the teachers' First Amendment rights to say what should be read by the students and limited the board's powers to remove books already purchased. The students' right to information was also reaffirmed.

Pico v. Board of Education of Island Trees, N.Y.

This case has been winding through the complexities of the judicial system since 1977 and is still unresolved, but is expected to bring a major ruling on the issue of censorship. The events leading up to the case began even earlier, in September 1975, when members of the school board, the president and the vice-president of the school district attended a conference by Parent of New York-United (PONY-U), a politically conservative group. They received a collection of excerpts from books the groups declared "objectionable." In November, the board members found several of the books listed in the junior and senior high libraries and in a literature course.

In a private session of the board, the superintendent and principals of the senior and junior high schools, gave "unofficial direction" that the books be removed. In March 1976, the board ratified the order of the already accomplished transfer of the books to the board's office and appointed four parents as a Book Review Committee.

The committee recommended, and the board approved, the following actions: **Laughing Boy** was returned with no restrictions; **Black Boy** was placed on parental approval; and nine others, including **Slaughterhouse Five** and **The Fixer**, were removed from the library and the curriculum. The president of the board announced that these books could not be assigned as required, optional, or suggested readings, but they could be discussed in class.

The plaintiffs argued that their federal and state constitutional rights had been violated by those actions. The case centered around four main issues. First, who had the jurisdiction to determine subject matter. The court ruled that the board did because the books were removed in a decision adopted and used previously by the board.

The second issue was the class action suit filed by the plaintiffs. The court rejected the petition because it said the claims were not typical for all members of the class, and there would be no advantage to certification. The case would be as effective without the procedural troubles associated with class certification.

A major issue was the constitutionality of the board's action in removing the books and restricting access to them. The court found that the students' First Amendment rights might have been violated.

The fourth issue was the constitutionality of the board's removal of the books from the curriculum. The court said there was no "sharp focused issue of academic freedom." The court concluded that the respect for traditional values of community and deference to the school board's control over the educational content in the schools outweighed any First Amendment violations.

The plaintiffs filed for remand in January 1977, to prove their rights had been violated. The motion was denied because the court said the case presented substantial questions of federal constitutional law. Furthermore, District Court Judge George C. Pratt rejected the idea of book having "tenure," and said it was a legitimate duty of the school board to examine the contents of school library material for their suitability. This was a direct contradiction of **Minarcini**, sanctioning the "winnowing" practices of the board that that court had found illegal.

In October 1980, the case was heard by the Second Circuit Court of Appeals which reversed the lower court's ruling and held that the students had a "substantial claim" for violation of their First Amendment rights. In a 2-1 split, the judges ruled that the case be remanded for trial for the students to prove their claims.

Judge Charles D. Sifton said the board's criteria was too general and were applied to the books without regard for the First Amendment. He felt in this case that interference by people not usually concerned with school operations also warranted an invasion of the students' rights.

The other majority judge, John O. Newman, stated, "The use of governmental power to condemn a book touches the central nervous system of the First Amendment." He also

called the action suppressive.

In dissent, Judge Walter R. Mansfield said he had catalogued indecent matter, the obscenities, sexual descriptions and disparaging remarks about Blacks, Jews and Christ in support of the board's action. He called the board's action, "a rational exercise of its statutory duty to prescribe appropriate materials for the education of children in the district."

The wide range of opinions on this one bench demonstrates the lack of consistency throughout the judicial system. The court realistically suggested that the problems in **Pico** do not yield "simplistic formulas," and answers will finally depend on the "personal judgements" of jurists rather than precedents.

To emphasize this fact, it is interesting to note that on the same day, the same Court of Appeals dismissed a complaint by a librarian and students about the removal of at least one book and the severe restrictions placed on others. The court ruled, again 2 to 1, that school boards have the final authority in such matters. Writing for the majority in **Bicknell v. Vergennes Union High School District**, Judge Newman said:

> The attention of the Board was first directed to the two books by complaint about their vulgar and indecent language. There is no suggestion that the books were complained about or removed because of their ideas, nor that the Board members acted because of political motivation.

In dissent, Judge Sifton wrote that the plaintiffs "should be given an opportunity through discovery and a trial to prove that ideas were being suppressed rather than merely vulgar or obscene language." Despite the precendents established by all the cases mentioned, it is clear that there are no consistent and satisfactory solutions, which means that each case will have to be fought in court to determine its validity.

Pressure from the Right

The vague and contradictory rulings of the courts have probably contributed to the increase in the number of censorship cases by making the issue of academic freedom more vulnerable. However, there is a larger more fundamental reason, the increased concern by citizens that society has become too permissive, and that permissiveness is most apparent in the schools.

Henry Reichman, assistant director of the OIF, says one explanation for the increasing attacks, especially on school libraries and textbooks, is, "Society is more controversial about the issue. There is no unity about what students should learn."[18] But if there is no unity about what they should learn, there is increasing unity between those who think they're definitely not learning the right ideas.

Concerned parents and citizens are gaining support from powerful people and organizations, most notably the New Right, Moral Majority and Mel and Norma Gabler, textbook critics of Longview, Tex. Basically, these groups feel society's problems can be traced to, "taxes, big government, liberalism, progressivism and Godlessness," and one place to correct these is in their children's schools.[19] Their passionate ideological commitment to their issues makes them a formidable force. For example, Jerry Falwell, founder of the Moral Majority, defines the textbook issues stringently when he says:

> Textbooks have become absolutely obscene and vulgar. Many of them are openly attacking the integrity of the Bible. Humanism is the main thrust of the public school textbook. . . For our nation this is a life-and-death struggle, and the battle lines for this struggle is (sic) the textbooks.[20]

The gravity of this view becomes more recognizable considering that his show, "The Old Time Gospel Hour," has a $60 million budget and reaches 15 million people a week.[21]

Charles Park summed up the New Right's position in an article examining the new pressures on public education in the **Phi Delta Kappan**. He said:

> (It) asserts that truth is revealed and that education must not be a vehicle for allowing an individual to explore ideas independently, but rather to accept without question established truths stated by selected authorities.[22]

This attitude and its anthithesis were displayed throughout the cases cited earlier. These new pressure groups are seeking the affirmation of the school board to have full authority over the materials in the schools — as long as it is material they approve of.

The size and magnitude of potential power of these groups to sway peoples' minds and garner support for their views are awesome. The Moral Majority and the New Right coalition use computer lists of 25 million supporters to establish single-issue constituencies, with hard-core reactions, on topics ranging from abortion and gun control to taxes and censorship. Another active group, Conservative Caucus, has 300,000 members, and its advisory board includes 23 Congressmen. Its estimated budget for 1979 was over $2 million.[23]

Sen. Jesse Helms helped raise $9 million in a letterwriting campaign for the National Conservative Political Action Committee. An example of a letter signed by Helms said:

> (R)ight now your tax dollars are being used to pay for grade school courses that teach our children that cannibalism, wife swapping, and murder of infants and the elderly are acceptable behavior.[24]

The **Newsletter on Intellectual Freedom** reports that the North Carolina chapter of Moral Majority has started a statewide effort to remove textbooks and library books it says are unfit for public schools. Parent committees in 21 counties have already formed to review books and make lists of objectionable titles for elementary, junior and senior high schools.[25]

The Rev. H. Lamarr Mooneyham of Durham, the chairman of the state campaign, said they are looking for titles that are, "anti-family, anti-God, anti-Bible and pro all that other stuff." The main complaints are about fiction containing sex, biology books on evolution to the dimunition of creation, and history books that portray a "shoddy" American heritage.

Mooneyham said the Moral Majority won't be directly involved with specific titles, but he added, "We're not about to stand still while our pre-schoolers are being taught to reproduce and to deny the presence of God's hand in creation." He added that the success of the movement would depend on the parents in the community who would have to take up the issue with their local board members.

Mooneyham said the action was not censorship, only a pleas for fairness. He said, "Let's be fair, let's be balanced. You are what you read. It's not healthy to have just a single viewpoint."

The campaign has not been endorsed by Moral Majority groups in other states, so far. But others, especially in Virginina, are watching closely for results.

The Family Protection Act

Pressure and concern about family life in America has led

to the introduction of a bill in Congress called the Family Protection Act, which has the full support of the New Right. In fact, **Conservative Digest** calls the bill, "a major project of the conservative movement."[26]

The Senate version, S. 1808, states that the purpose of the bill is to provide incentives through federal funds for public schools to comply with the provisions of the act. Any school that fails to do so will lose its funding.

The bill would prohibit:

- "seeking to inculcate values or modes of behavior which contradict the demonstrated belief and values of the community;" and
- use of any educational materials that "tend to denigrate, diminish or deny the role differences between the sexes as it (sic) has been historically understood in the United States;"

It would require educational agencies to provide parental review of textbooks prior to their use in public school classrooms. The bill is indicative of the mood of the country in that it could even be seriously considered.

In an editorial, conservative columnist James Kilpatrick argued against the bill - not because of its spirit - but because of its methods. He said the bill was a "hodgepodge of good intentions and bad law." Its good intentions were its attempts to form a stable and healthy American family, which "is at the foundation of a strong American society." He opposed the measures because they would increase federal control and deprive the states of their rights. Calling the measures "preposterous" in their broad scope, he said the bill would further tear down the barrier between church and state.

Never in the article did he say anything about the bill's prohibitions, but he concluded, "In one way or another, the bill violates just about every precept of a conservative political philosophy. Legislatively speaking, it is so much junk. It ought to be quietly scrapped."[27]

Others might hope that the bill will be scrapped on more fundamental grounds of academic freedom. Reichman says the bill has serious sponsorship and consideration, but the ALA has no plans for lobbying against it.[28]

Growing Concern

On the other side of this barrage of censorship stand a few organizations pledged to the cause of academic freedom. The ALA thinks there is no question that the librarian is the sentry against the censors. Parents are the only ones who should be allowed to censor, and then only for their own children. The ALA's Library Bill of Rights set the ideal forth with no spirit of compromise:

> In no case should library materials be excluded because of the race or nationality or the social, political or religious views of authors. . . No library material should be proscribed or removed from libraries because of partisan or doctrinal disapproval. . . Libraries should cooperate with all persons and groups concerned wth resisting abridgement of free expression and free access to ideas. The rights of an individual should not be denied or abridged because of his age, race, religion, national origins, sex, or social or political views. . .[29]

Unfortunately for the ALA, there are so many cases that all it can do is support the national ones and let the local ones go.[30] The OIF, in its **Newsletter**, attempts to keep track of censorship cases in the country, highlighting the major events. Other groups, such as the American Civil Liberties Union, also keep tabs on possible infringements upon academic freedom and offer support.

As censorhip has continued to rise and the attacks became more virulent and widespread, these groups have become more concerned about the state of academic freedom in America. The Freedom to Read Foundation warns that the library community must be prepared against censors. But it affirms that it "it can and will rise to meet the challenges to free expression that lie ahead. Freedom to Read Foundation remains, as always, firmly committed to marching in the vanguard of that effort."[31]

With the burgeoning power of the pressure groups, the turning tide toward conservativism and the reluctance of the courts to clearly define the right to academic freedom, it is easy to see why Henry Reichman says, "This is the most dangerous situation for free expression since the McCarthy hearings."[32]

FOOTNOTES

1. Frank Trippett, "The Growing Battle of the Books," **Time**, 117 (19 January 1981), p. 86.
2. "Censorship Dateline: Schools," **Newsletter on Intellectual Freedom**, 30 (March 1981), p. 35.
3. "Growing War: Pro- and Anti-censorship Forces Use Schools as Battlegrounds," **Phi Delta Kappan**, 61 (June 1980), p. 722.
4. Trippett, p. 85.
5. L.B. Woods, **A Decade of Censorship in America: The Threat to Classrooms and Libraries, 1966-1975**, (Metuchen, N.J.: The Scarecrow Press, Inc., 1979), p. 156.
6. Dorothy C. Massie, "Censorship in the Schools: Something Old and Something New," **Today's Education**, 69 (Nov./Dec. 1980), p. 30GS.
7. **Ibid.**
8. **Ibid.**
9. Lawrence B. Fuller, "Students' Rights of Expression: The Decade since **Tinker**," **English Journal**, 68 (Dec. 1979), p. 11.
10. Bruce Rich, "Obscenity Regulation and School Book Censorship: Some Thoughts on the Year Ahead," **Newsletter on Intellectual Freedom**, 30 (March 1981), p. 34.
11. Rich, p. 33.
12. Robert M. Press, "Library Shelves Are Becoming a Battleground," **Christian Science Monitor**, 9 July 1975.
13. Julia Turnquist Bradley, "Censoring the School Library: Do Students Have the Right to Read?" **Connecticut Law Review**, 10 (Spring 1978), p. 767.
14. Rich, p. 34.
15. Aric Press, "The Right to Ban Books," **Newsweek**, (10 November 1980), p. 75.
16. "No More Midnight Raids?" **Newsletter on Intellectual Freedom**, 25 (November 1976), p. 596.
17. Woods, p. 29.
18. Henry Reichman, assistant director of the Office of Intellectual Freedom, Telephone conversation with author, 15 April 1981.
19. J. Charles Park, "Preachers, Politics, and Public Education: A Review of Right-wing Pressures Against Public Schools in America," **Phi Delta Kappan**, 61 (May 1980), p. 608.
20. Park, p. 609.
21. Park, p. 608.
22. Park, p. 609.
23. Park, p. 608.
24. **Ibid.**
25. "North Carolina Moral Majority Listing 'Harmful' School Books," **Newsletter on Intellectual Freedom**, 30 (March 1981), p. 29.
26. "Protecting a Family," **Conservative Digest**, (December 1979), p. 31.
27. James Kilpatrick, "Family Protection Act is Junk and Ought to be Scrapped," **Coumbia Missourian**, 25 February 1981, p. 4A.
28. Reichman.
29. John C. Swan, "Librarianship is Censorship," **Library Journal**, 1 October 1979, p. 2040.
30. **Ibid.**
31. "Freedom to Read Foundation Reports Success of Jeanne Layton Challenge," **Newsletter on Intellectual Freedom**, 30 (March 1981), p. 33.
32. Reichman.

LIST OF CASES

Bicknell v. Vergennes Union High School Board—475 F Supp 615
Gambino v. Fairfax County School Board—429 F Supp 731, aff 564 F2d 157
Keefe v. Geanakos—305 F Supp 1091; rev. 418 F2d 359
Miller v. California—93 SCt 2607; 413 US 15; 37 LEd2d 419
Minarcini v. Strongsville City School District—384 F Supp 698; 541 F2d 577
Parducci v. Rutland—316 F Supp 352
Pico v. Board of Education of Long Trees, N.Y.—474 F Supp 387
President's Council District 25 v. Community School Board No. 25—457 F 289; cert. den. 93 SCt 308, 409 US 998; 34 LEd2d 260
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